

IN THE
SUPREME COURT OF OHIO

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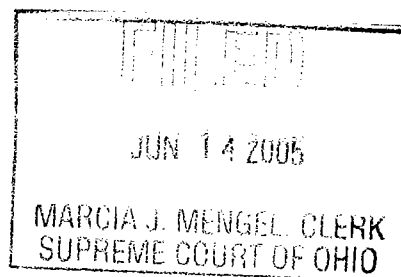
STATE OF OHIO	:	NO. 05-0904
Plaintiff-Appellee	:	On Appeal from the Hamilton County
vs.	:	Court of Appeals, First Appellate
	:	District
LOUIS MERRIWEATHER	:	Court of Appeals
Defendant-Appellant	:	Case Number C-030948

MEMORANDUM IN RESPONSE

Joseph T. Deters (0012084P)
Prosecuting Attorney

Philip R. Cummings (0041497P)
Assistant Prosecuting Attorney
Counsel of Record

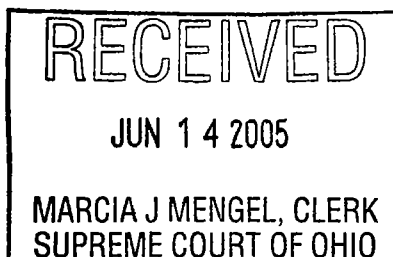
230 East Ninth Street, Suite 4000
Cincinnati, Ohio 45202
(513) 946-3012
Fax No. (513) 946-3021



COUNSEL FOR PLAINTIFF-APPELLEE, STATE OF OHIO

Louis Merriweather #348-451
Chillicothe Correctional Institution
P.O. Box 5500
Chillicothe, Ohio 45601-0990

DEFENDANT-APPELLANT, PRO SE



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TABLE OF CONTENTS

PAGE

EXPLANATION OF WHY THIS CASE IS NOT A CASE OF PUBLIC OR GREAT GENERAL INTEREST AND DOES NOT INVOLVE A SUBSTANTIAL CONSTITUTIONAL QUESTION 1.

STATEMENT OF THE CASE AND FACTS 1.

ARGUMENT 2.

PROPOSITION OF LAW: OHIO REV. CODE ANN. § 2953.23 CLOSELY CIRCUMSCRIBES THE JURISDICTION OF A COMMON PLEAS COURT TO ENTERTAIN A TARDY OR SUCCESSIVE POSTCONVICTION PETITION: THE PETITIONER MUST SHOW EITHER THAT HE WAS UNAVOIDABLY PREVENTED FROM DISCOVERING THE FACTS UPON WHICH HIS PETITION DEPENDS, OR THAT HIS CLAIM IS PREDICATED UPON A NEW OR RETROSPECTIVELY APPLICABLE FEDERAL OR STATE RIGHT RECOGNIZED BY THE UNITED STATES SUPREME COURT SINCE THE EXPIRATION OF THE TIME PRESCRIBED IN OHIO REV. CODE ANN. § 2953.21(A)(2) OR SINCE THE FILING OF HIS LAST PETITION; AND HE MUST SHOW BY CLEAR AND CONVINCING EVIDENCE THAT, BUT FOR CONSTITUTIONAL ERROR AT TRIAL, NO REASONABLE FACTFINDER WOULD HAVE FOUND HIM GUILTY OF THE OFFENSE OF WHICH HE WAS CONVICTED. OHIO REV. CODE ANN. § 2953.23(A). 2.

CONCLUSION 4.

PROOF OF SERVICE 4.

IN THE
SUPREME COURT OF OHIO

STATE OF OHIO : NO. 05-0904
Plaintiff-Appellee :
vs. :
LOUIS MERRIWEATHER : MEMORANDUM IN RESPONSE
Defendant-Appellant :

**EXPLANATION OF WHY THIS CASE IS NOT A CASE OF PUBLIC OR
GREAT GENERAL INTEREST AND DOES NOT INVOLVE A
SUBSTANTIAL CONSTITUTIONAL QUESTION**

The issues raised by defendant-appellant have already been resolved by this Court and other Ohio Courts. No issue of great public or general interest is presented, nor does any substantial constitutional question exist. Jurisdiction is properly denied.

STATEMENT OF THE CASE AND FACTS

On May 15, 1997, defendant plead guilty to two counts of rape. On June 18, 1997, defendant was sentenced to the Department of Corrections for ten years. Defendant did not timely appeal this judgment. Defendant did not file timely for post-conviction relief.

On September 9, 2003, defendant filed a petition for post-conviction relief. By entry of September 29, 2003, the trial court denied the petition as untimely. The Court of Appeals affirmed. This appeal ensued.

Facts:

In his September 9, 2003 petition entitled, "Motion for Evidentiary Hearing Pursuant to R.C. 2953.22," defendant made no attempt to explain or justify the tardiness of his petition. The trial court noted the tardiness of the petition and found that no grounds existed to grant defendant the relief requested.

ARGUMENT

PROPOSITION OF LAW: OHIO REV. CODE ANN. § 2953.23 CLOSELY CIRCUMSCRIBES THE JURISDICTION OF A COMMON PLEAS COURT TO ENTERTAIN A TARDY OR SUCCESSIVE POSTCONVICTION PETITION: THE PETITIONER MUST SHOW EITHER THAT HE WAS UNAVOIDABLY PREVENTED FROM DISCOVERING THE FACTS UPON WHICH HIS PETITION DEPENDS, OR THAT HIS CLAIM IS PREDICATED UPON A NEW OR RETROSPECTIVELY APPLICABLE FEDERAL OR STATE RIGHT RECOGNIZED BY THE UNITED STATES SUPREME COURT SINCE THE EXPIRATION OF THE TIME PRESCRIBED IN OHIO REV. CODE ANN. § 2953.21(A)(2) OR SINCE THE FILING OF HIS LAST PETITION; AND HE MUST SHOW BY CLEAR AND CONVINCING EVIDENCE THAT, BUT FOR CONSTITUTIONAL ERROR AT TRIAL, NO REASONABLE FACTFINDER WOULD HAVE FOUND HIM GUILTY OF THE OFFENSE OF WHICH HE WAS CONVICTED. OHIO REV. CODE ANN. § 2953.23(A).

R.C. 2953.21(A)(2) provides:

(2) A petition under division (A)(1) of this section shall be filed no later than one hundred eighty days after the date on which the trial transcript is filed in the court of appeals in the direct appeal of the judgment of conviction or adjudication or, if the direct appeal involves a sentence of death, the date on which the trial transcript is filed in the supreme court. If no appeal is taken, the petition shall be filed no later than one hundred eighty days after the expiration of the time for filing the appeal.

R.C. 2953.23 closely circumscribes the jurisdiction of a common pleas court to entertain a tardy or successive postconviction petition: The petitioner must show either that he was unavoidably

prevented from discovering the facts upon which his petition depends, or that his claim is predicated upon a new or retrospectively applicable federal or state right recognized by the United States Supreme Court since the expiration of the time prescribed in R.C. 2953.21(A)(2) or since the filing of his last petition; and he must show “by clear and convincing evidence that, but for constitutional error at trial, no reasonable factfinder would have found (him) guilty of the offense of which (he) was convicted.”¹

Here, the trial court properly declined to entertain defendant’s tardy petition because the record does not demonstrate either that he was unavoidably prevented from discovering the facts underlying his claims or that his claims were predicated upon a new or retrospectively applicable federal or state right recognized by the United States Supreme Court since the filing of his first petition. The sentencing issues² raised by Merriweather are based on cases that do not apply to him. They do not apply retroactively to cases (like defendant’s) on collateral review.³

¹ R.C. 2953.23(A); see also, State v. Sanders, 2002 Ohio 5093, *, 2002 Ohio App. LEXIS 5180, **.

² Blakely v. Washington (2004), ___ U.S. ___, 124 S.Ct. 2531; United States v. Booker (2005), ___ U.S. ___, 125 S.Ct. 738.

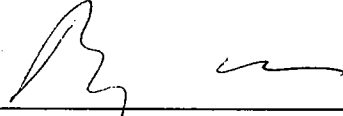
³ Humphress v. United States (C.A.6, 2005), 398 F.3d 855; Green v. United States (C.A.2, 2005), 397 F.3d 101.

CONCLUSION

Jurisdiction is properly denied..

Respectfully,

Joseph T. Deters, 0012084P
Prosecuting Attorney

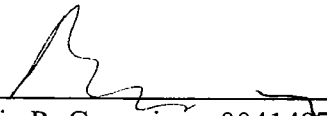


Philip R. Cummings, 0041497P
Assistant Prosecuting Attorney
230 East Ninth Street, Suite 4000
Cincinnati, Ohio 45202
Phone: 946-3012

Attorneys for Plaintiff-Appellee

PROOF OF SERVICE

I hereby certify that I have sent a copy of the foregoing Memorandum in Response, by United States mail, addressed to Louis Merriweather, Pro se, Inmate #348-451, Chillicothe Correctional Institution, P.O. Box 5500, Chillicothe, Ohio 45601-0990, this 13 day of June, 2005.



Philip R. Cummings, 0041497P
Assistant Prosecuting Attorney

ON COMPUTER-KMR

The Supreme Court of Ohio

102-241

FILED

SEP 07 2005

MARCIA J. MENGEL, CLERK
SUPREME COURT OF OHIO

State of Ohio

Case No. 05-904

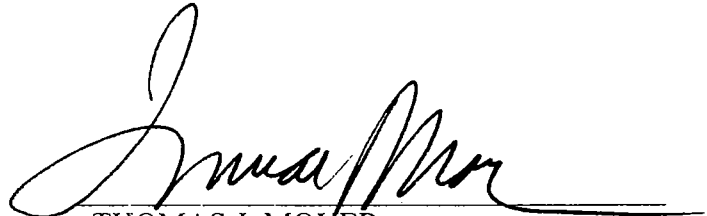
v.

ENTRY

Louis Merriweather

Upon consideration of the jurisdictional memoranda filed in this case, the Court declines jurisdiction to hear the case and dismisses the appeal as not involving any substantial constitutional question.

(Hamilton County Court of Appeals; No. C030948)

A handwritten signature in black ink, appearing to read 'Thomas J. Moyer', with a long horizontal flourish extending to the right.

THOMAS J. MOYER
Chief Justice

The Supreme Court of Ohio

FILED

SEP 07 2005

MARCIA J. MENGEL, CLERK
SUPREME COURT OF OHIO

State of Ohio

v

Louis Merriweather

Case No. 05-904

ENTRY



D65470083

Upon consideration of the jurisdictional memoranda filed in this case, the Court declines jurisdiction to hear the case and dismisses the appeal as not involving any substantial constitutional question.

(Hamilton County Court of Appeals; No C030948)

B9102196

THOMAS J MOYER
Chief Justice

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HAMIL. CNTY. OH

CLERK OF COURTS

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COURT OF APPEALS

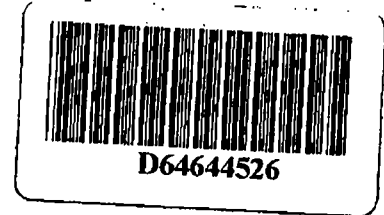
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GREGORY HARTMANN
CLERK OF COURTS
HAMILTON COUNTY

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IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

STATE OF OHIO

Plaintiff-Appellee

vs.

LOUIS MERRIWEATHER

Defendant-Appellant

C050596

Trial No.B-9702196

NOTICE OF APPEAL

Now comes defendant-Appellant and hereby gives notice of appeal to the First
Dist.Court of Appeals From judgment rendered on June 18,1997 by said trial court.
This untimely notice of appeal is with request for appointment of appellate
counsel.

FILED
2005 JUL 27 A 10:09
GREGORY HARTMANN
CLERK OF COURTS
HAM. CNTY. OH

Respectfully submitted:

Louis Merriweather, #348-451
P.O.Box 5500
Chillicothe, Oh.45601-0990

CERTIFICATE OF SERVICE

I hereby certify that a copy of notice of appeal was forward to Hamilton
Cty.Prosecutor at 230 E.9th.St./Cinti,Oh.45202 and the Hamilton Cty.Clerk of Courts
at 1000 Main St./Cinti,Oh.45202, simultaneously on this 20th day of July 2005, by first
class per-paid U.S.mail.

ORIG, COMP, PARTIES, SUMMONS

() CERT MAIL () SHERIFF () WAVE

() PROCESS SERVER () NONE

CLERKS FEES _____ TIC

SECURITY FOR COST _____

DEPOSITED BY 29997

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CLERK OF COURTS

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IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO



STATE OF OHIO

APPEAL NO. C-050596
TRIAL NO. B-9702196 ✓

Appellee,

vs.

ENTRY OF DISMISSAL

LOUIS MERRIWEATHER

Appellant.

This cause came on to be considered upon the appeal from the trial court.

The Court *sua sponte* dismisses the appeal for failure of the appellant to comply with the Ohio Rules of Appellate Procedure to wit: the notice of appeal was not timely filed. See Appellate Rule 4 (A).

It is further ordered that a certified copy of this judgment shall constitute the mandate to the trial court pursuant to Rule 27, Ohio Rules of Appellate Procedure.

To The Clerk:

Enter upon the Journal of the Court on AUG 31 2005 per order of the Court.

By: 
Acting Presiding Judge

(Copy sent to counsel)



IN THE COURT OF APPEALS FIRST APPELLATE DISTRICT
OF OHIO
HAMILTON COUNTY, OHIO

STATE OF OHIO

Plaintiff-Appellee,

vs.

Appeal NO. **C050619**

LOUIS MERRIWEATHER

Defendant-Appellant

Trial No. B-9702196

MOTION FOR LEAVE TO FILE DELAY APPEAL
PURSUANT TO APP. R.5(A).

Now enters Defendant-Appellant Merriweather in pro, [hereinafter Merriweather] and respectfully moves the court for an order granting Merriweather leave to proceed on a delay appeal. Merriweather failed to perfect an appeal as of right because the Hamilton Cty. Clerk of Courts and the Hamilton County Prosecutor's office failed to properly provide Merriweather with timely notice of service from trial court's judgement of June 18, 1997. In addition the Clerk of Courts and the Hamilton County Prosecutor's office failed to make any notation that either provided Merriweather with proper service of notice of trial court's decision where appeal lies, this failure of proper notice of service denied Merriweather due process of law and Merriweather now appeals this failure. See memorandum in support.

See also attached docket sheet of 2005 which list "no" documentation or notation that such proper notice of service was ever provided to Merriweather.

Respectfully submitted:

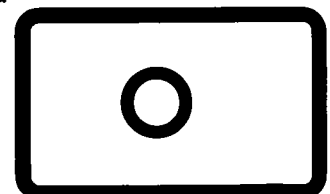
Louis Merriweather
Louis Merriweather, #348-45

ORIG, COMP, PARTIES, SUMMONS	
() CERT MAIL	() SHERIFF () WAVE
() PROCESS SERVER	() NONE
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SECURITY FOR COST _____	
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GREGORY HARTMANN
CLERK OF COURTS
HAM. CNTY. OH

2005 AUG -2 A 9:34

FILED



MEMORANDUM IN SUPPORT

Now enters Merriweather in pro se, and respectfully moves the First District Court of Appeals for an order granting Merriweather an appeal as of right on judgment entered by trial court on June 18, 1997 in the Hamilton County Common Pleas Court, more than 8½ years after the 30 days limit of App.R. 4 for filing a timely notice of direct appeal from trial court's judgment for the following reasons; (a) Merriweather never received proper service of trial court's judgment of June 18, 1997 from the Hamilton County Clerk of Courts pursuant to Ohio's Civil Rules 5 & 58(B), through due diligence Merriweather has now uncovered the Authorities which gives him the right to request for a appeal as of right for said 8½ year old judgment, for the Clerk of Court's failure to properly provide Merriweather service of trial court's judgment..

FIRST ASSIGNMENT OF ERROR: Hamilton County Clerk of Courts failed to comply with Ohio Civil Rules of Procedure 5 & 58(B) by failing to provide proper service of a final appealable order to Merriweather on trial Court's judgment of June 18, 1997
ISSUE PRESENTED FOR REVIEW AND ARGUMENT..

Did the Hamilton County Clerk of Court's **failure** to provide proper service of Trial Court's judgment of June 18, 1997 deny Merriweather due process of law in violation of U.S.C.A. and Ohio Constitution Amendments.

In Atkinson v. Grumann Ohio Corp., (1988) 37 Ohio St.3d 80, 523 NE2d 851, the Supreme Court held: "The right to file an appeal, as it is defined in the Appellate Rules, is a property interest and a litigant may not be deprived of the interest without due process of law", U.S.C.A. Const. Amend 5, 14, Ohio Const. Art 4, §3(B), (B)(1)(f), R.C. §2505.03. The opportunity to file a timely appeal pursuant to App.R. 4(A) is rendered meaningless when reasonable notice of an appealable order

is not given, Moldovan v. Guyaboga Cty. Welfare Dept., (1986), 25 Ohio St.3d.293,295,25 OPR 343,345,496 NE2d 466,467. The Atkinson Court went further and promulgated the procedures that should be followed in order to comply with Civ.R.5,58(B) when it held in 523 NE2d.at 856-857, "For our purposes, we believe that the following rules will meet the due process requirements contemplated by Mullane v. Central Hanover Bank and Trust Co., (1950), 339 U.S.306, 70 S.Ct.652, 94 L.Ed.865. These rules are to be applied in all courts of this state in the exercise of Civil Jurisdiction at law, or in Equity, except as stated in Civ.R.1(C). The rules are:

(A) Within 3 days of the entry of any final appealable judgment or order, the Clerk of Courts shall serve a notice of the entry in any manner provided in Civ.R.5, upon every party who is not in default for failure to appear.

(B) The Clerk shall make a notation in the case docket indicating that SERVICE HAS BEEN MADE.

(C) Once the Clerk has served notice of the entry and entered the appropriate notation in the docket, the notice shall be deemed to have been served. The failure of any party to receive such notice shall not affect the validity of the judgment or the running of the time for appeal. These issues concern the procedure for notifying the parties of a judgment entry after the trial court decision, and not any matter heard in the trial court. "Reasonable notice of final order is required to be given to parties by deciding court to protect parties' right to appeal", Fed. Rules Civ. Proc., Rule 77(d), 28 U.S.C.A., Rules App. Proc., Rule 4(A); Ohio Const. Art.1, §16. Therefore, the procedures as enunciated by the Atkinson Court must be mandatorily complied with in order to satisfy the due process requirements of

of what constitutes proper notice of a final appealable order. On a more practical level, procedural due process places upon the Government a duty to give reasonable notice, and a opportunity to be heard, to those whose interest in life, liberty or property are adversely affected by Governmental action. Merriweather maintain that his docket statement of 2005 does not reflect any written notice notation of proper service to him or other parties in this matter. The Appellee will move for dismissal of appeal for lack of jurisdiction on the basis that the appeal was not timely filed pursuant to App.R.4(A). In Wiley et.al.v.Gibson, 125 Ohio App.3d.77,707 NE2d 1151 (Ohio App.1st Dist.1997) The First Appellate Court held "[T]he time period in which an appeal may be taken does not begin to run until a party is given notice of the final appealable order". Appellee will then contend; (a) that the verbal announcement of the decision in open court starts the running of appeal time clock. In Cornacchione v.BD.of Zoning Appeals, 118 Ohio App.3d.388,692 NE2d 1086 (1997) The 9th Dist.Appellate Court held "[T]he time for appeal does not commence upon a mere "verbal" announcement of the decision". State ex rel.Hanley v.Roberts, (1985) 17 Ohio St.3d 1,4,17 OBR 1,3-4,476 NE2d 1019,1022, quoting Sun Oil Co.v.Bd.of Zoning Appeals (C.P.1966), 9 Ohio MISC.101,102,38 O.O.2d.152,153,223 NE2d 384,385-386 "That there be a permanent, written record of some nature is implicit and inherent in the use of the word "entry" [in R.C.2505.07]. The Cornacchione Court concluded, then, that there are two requirements which must be met before an order becomes final and appealable under R.C.§2505.07. Hanley and Atkinson require the decision be put in some final, written form. Maldovan, Atkinson and Swander Ditch require that the time within which to perfect an appeal under R.C.Chapter 2505 cannot begin to run until a copy of the

final decision is mailed to the interested party or such party's attorney". Although this is not clearly prescribed by R.C. §2505.07, the absence of such a requirement would unfairly diminish the right to appeal and thereby violate an appellant's right to due process. (b) Appellee will also contend that Merriweather was not diligent, the fact is that appellee exercised less than due diligence in this case. A guilty plea is a contractual agreement between the defendant and the state which make the guilty plea civil in nature. Local Rule 17(A) of the Hamilton County Court of Common Pleas states that "[c]ounsel for the party in whose favor an order, judgment, or decree has been granted, shall prepare a journal entry within ten days thereafter, and shall submit it to opposing counsel, who shall approve or reject it within three days after its receipt. The endorsement of counsel for each party affected shall appear on the journal entry before counsel presents it to the Court for approval, if opposing counsel fails to return or refuses to endorse the journal entry counsel may present to the Court a proposed journal entry which includes a certificate of service as provided in Rule 11(1). When the Court signs a judgment as defined in Ohio Civil 54 from which an appeal lies, as provided in Revised Code Section 2505.02, the Court shall affix a uniform stamp in red ink identifying said judgment and directing the clerk to serve all parties pursuant to Ohio Civil Rule 58. Counsel for the party in whose favor a final appealable order, judgment, or decree has been granted shall forward notice of such filing to all other counsel or parties in the case and said counsel shall also file a "certificate" of such notice with the Clerk of Courts for journalization. In light of these failures, it is difficult to understand why appellee would not favor, one, granting Merriweather an appeal as of right, two, affirming Merriweather's diligence.

The Moldovan Court held "[t]hat failure to give reasonable notice of final appealable orders is a denial of the right to legal redress of injuries created by section 16, Article 1 of the Ohio Constitution in all pending and future cases", *Moldovan*, supra, at 296 OBR at 345-346, 496 NE2d at 468. Section 16, Article 1 of the Ohio Constitution, referred to as the "open Courts" section, provided in part:

"All courts shall be open, and every person, for an injury done him in his land, goods, person, or reputation, shall have remedy by due course of law, and shall have justice administered without denial or delay".

[T]herefore, Merriweather should be granted leave to file a delayed appeal for direct review of all his issues with appointment of appellate counsel.

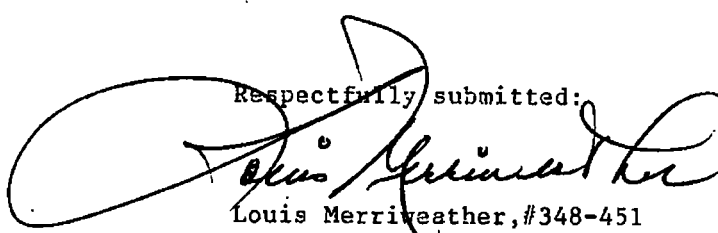
In *Centerville Bd. of Tax Appeals v. Wright* (1991), 72 Ohio App.3d.313, 594 NE2d 670;

The Court held "[T]he fundamental requirements of "due process" are reasonable notice and an opportunity to be heard. Mechanisms for notice do not involve entry in a journal but, instead, contemplate and employ some form of delivery to the party affected or to his legal representative".

Conclusion

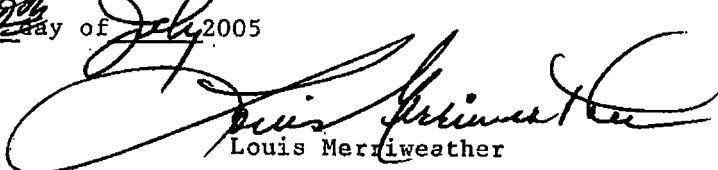
[D]ue process has been held to protect...those fundamental principles of liberty and justice which lie at the base of our civil and political institutions". *Burtado v. California*, (1884), 110 U.S. 516, 535, 4 S.Ct. 111, 120, 28 L.Ed. 232, and to guarantee those procedures which are required for the...protection of ultimate decency in a civilized society".

Respectfully submitted:


Louis Merriweather, #348-451

CERTIFICATE OF SERVICE

I, hereby certify that a correct copy of the foregoing motion and notice of appeal with leave to file delayed appeal was forward to Hamilton Cty. Prosecutor at 230 E. 9th St. Cinti, Oh. 45202 and the Hamilton Cty. Court of Com. pleas at 1000 Main ST. Cinti, 45202 simultaneously on this 20th day of July 2005 per-paid by U.S. mail first class


Louis Merriweather

TODAY'S DATE: 1/06/2005
CASE: B 9702196

HAMILTON COUNTY CLERK OF COURTS
COMMON PLEAS DIVISION
Criminal Appearance Report

PAGE 1
CMSR5155

A P P E A R A N C E D O C K E T

Attorney - Plaintiff
Attorney - Defendant JACK C RUBENSTEIN 6200
Cur Judge - ROBERT S KRAFT 15

STATE OF OHIO vs. LOUIS MERRIWEATHER

Total Deposits \$.00
Total Costs \$109.00

STATE OF OHIO

vs.

LOUIS MERRIWEATHER
213 BOSNICK AV
CINTI

Municipal #: , , ,

OH 45210

Race: B Age: 49 Sex: M

Filed: 4/02/1997 0005 - WARRANT ON INDICTMENT

Count:1	Disposition:3DOC DEPARTMENT OF CORRECTIONS	Date: 6/18/1997
Count:2	Disposition:3DOC DEPARTMENT OF CORRECTIONS	Date: 6/18/1997
Count:3	Disposition:3DOC DEPARTMENT OF CORRECTIONS	Date: 6/18/1997
Count:4	Disposition:3DOC DEPARTMENT OF CORRECTIONS	Date: 6/18/1997

IMAGE	DATE	DESCRIPTION	AMOUNT
	4/02/1997	INDICTMENT REPORTED AND FILED. INDICTMENT FOR RAPE 2907.02A1b R.C. W/ SPEC. (4CNTS)	
	4/02/1997	PRECIPE FOR WARRANT FILED AND WARRANT ISSUED.	
	4/03/1997	SIMON L. LEIS JR., SHERIFF: I HAVE IN CUSTODY AND HAVE SERVED COPY OF INDICTMENT ON	
230	4/10/1997	SAID DEFENDANT BY SNOWDEN, SR. DEPUTY ORDER TO SEAL ENTRY	
110	4/11/1997	WAIVER OF PRESENCE OF DEFENDANT AT ARRAIGNMENT 100,000	
	4/11/1997	COUNSEL ASSIGNED DANIEL F BURKE JR	
159	4/24/1997	ENTRY OF CONTINUANCE 5/7/97	
40	4/25/1997	ORDER TO SEAL ENTRY	
	4/30/1997	WRITTEN REQUEST FOR BILL OF PARTICULARS.	
	4/30/1997	DEFENDANT'S DEMAND FOR DISCOVERY	
52	5/07/1997	ENTRY OF CONTINUANCE 5/15/97	
	5/14/1997	SUBPOENA FOR WITNESS RETURNED AND ENDORSED ERICA PARRISH	
	5/15/1997	SUBPOENA FOR WITNESS ISSUED TO ERICA PARRISH	
124	5/15/1997	ENTRY WITHDRAWING PLEA OF NOT GUILTY AND ENTERING PLEA OF GUILTY CT 1 & 2 RAPE F-1 2907.02 DISMISS CT 3 & 4 & SEXUAL PREDATORS SPEC CTS 3 & 4.	
130	5/15/1997	ENTRY ON WAIVER OF TRIAL BY JURY.	
241	5/15/1997	ENTRY ORDERING PROBATION INVESTIGATION AND REPORT CLINIC EVAL.REPORT ORDERED. REMANDED. SENT SET 6/18/97	
19	5/16/1997	ENTRY APPOINTING COMMUNITY DIAGNOSTIC AND TREATMENT CENTER FOR EXAMINATION	
65	6/18/1997	ENTRY ADJUDICATING OFFENDER AS A: SEXUAL PREDATOR	
66	6/18/1997	ENTRY ORDERING PROCESSING OF OFFENDER	

HAMILTON COUNTY CLERK OF COURTS

TODAY'S DATE: 1/06/2005
CASE: B 9702196COMMON PLEAS DIVISION
Criminal Appearance ReportPAGE 2
CMSR5155

A P P E A R A N C E D O C K E T

225 6/18/1997 JUDGMENT ENTRY: SENTENCE:
INCARCERATION
DOC 10YRS ON EACH CTS 1 & 2 CONCURR.
TO EACH OTHER WITH CREDIT FROM 3/23/97
THRU 6/18/97. REMANDED. PAY COURT
COSTS. FOUND TO BE A SEXUAL PREDATOR

564 6/28/1997 ENTRY APPROVING COUNSEL FEES
\$300
5/06/1998 CRIMINAL STATE COSTS SATISFIED
12/06/2000 MOTION
FOR JUDICIAL RELEASE.

209 12/21/2000 ENTRY OVERRULING JUDICIAL RELEASE
2/14/2001 AFFIDAVIT OF INDIGENCY
2/14/2001 MOTION
FOR PRODUCTION OF TRANSCRIPTS BY
INDIGENT DEFENDANT.
3/08/2001 MOTION
FOR APPOINTMENT OF COUNSEL.
3/08/2001 AFFIDAVIT OF INDIGENCY
3/29/2001 NOTICE OF APPEAL FILED
NO. C0100232 COPY SENT TO HAMILTON
COUNTY PROSECUTOR
3/29/2001 DOCKET STATEMENT FILED.
B9702196
4/10/2001 MOTION TO DISMISS
REQUEST FOR TRANSCRIPTS

135 4/26/2001 ENTRY GRANTING MOTION
TO DISMISS REQUEST FOR TRANSCRIPTS
5/04/2001 ENTRY OF DISMISSAL
05/04/01 IMAGE# 3
C0100232
**COPY SENT TO DOC AND DEFENDANT ON
05/21/01 RSR**
6/14/2001 DOCKET STATEMENT FILED.
C-010232
9/28/2001 NOTICE OF APPEAL FILED AND MOTION FOR
DELAYED APPEAL
NO.C0100638 COPY SENT TO HAMILTON
COUNTY PROSECUTOR
9/28/2001 DOCKET STATEMENT FILED.
10/01/2001 DOCKET STATEMENT FILED.
C01000638
10/02/2001 DOCKET STATEMENT FILED.
C-010638
11/02/2001 ENTRY OVERRULING MOTION FOR LEAVE TO
APPEAL
C0100638
11/02/01 IMAGE# 4
***COPY SENT TO DOC AND DEFENDANT ON
11/19/01 RSR***
12/18/2001 NOTICE OF APPEAL OF APPELLANT L.
MERRIWEATHER FILED IN THE SUPREME
COURT OF OHIO ON 12/12/01, SC# 01-2152

2/19/2002 MOTION
FOR JAIL TIME CREDIT PURSUANT TO
O.R.C. #2967.191

252 3/04/2002 ENTRY GRANTING MOTION FOR JAIL TIME
CREDIT
3/19/2002 COPY OF ENTRY DENYING LEAVE TO APPEAL
AND DISMISSING APPEAL, FILED IN THE
SUPREME COURT OF OHIO ON 03/04/02, SC
01-2152
7/29/2002 MOTION
TO SUSPEND INCARCERATION/JUDICIAL
RELEASE O.R.C. 2929.20
8/23/2002 MOTION
TO STAY FURTHER PROCEEDING OF #2929.20
8/27/2002 MOTION
FOR DECLARATORY RELIEF OF SENTENCING.
10/08/2002 MOTION
TO STRIKE FROM RECORDS

TODAY'S DATE: 1/06/2005
CASE#B 9702196

HAMILTON COUNTY CLERK OF COURTS
COMMON PLEAS DIVISION
Criminal Appearance Report

PAGE 3
CMSR5155

A P P E A R A N C E D O C K E T

11/22/2002 MOTION
FOR RECUSAL OF SENTENCING JUDGE
12/20/2002 MERRIWEATHER'S MOTION FOR
POST-SENTENCE WITHDRAWAL OF GUILTY
PLEAS.
1/10/2003 FILING
1/17/2003 MOTION
TO AMEND POST-SENTENCE WITHDRAWAL OF
GUILTY PLEAS.
284 2/13/2003 ENTRY
DENYING MOTION FOR POST SENTENCE
WITHDRAWAL OF GUILTY PLEA
285 2/13/2003 ENTRY
DENYING MOTION FOR RECUSAL OF
SENTENCING JUDGE
3/04/2003 MOTION
TO SUSPEND FURTHER INCARCERATION UNDER
JUDICIAL RELEASE O.R.C. #2929.20
354 3/06/2003 ENTRY OVERRULING
MOTION FOR JUDICIAL RELEASE
4/09/2003 MOTION
FOR EMERGENCY DECLARATORY JUDGMENT.
4/09/2003 MOTION
FOR EVIDENTIARY HEARING TO CORRECT
MANIFEST INJUSTICE UNDER CRIM. R. 32.1
234 4/11/2003 ENTRY DENYING:
MOTIONS
5/15/2003 JUDICIAL NOTICE.
9/09/2003 MOTION
FOR EVIDENTIARY HEARING PURSUANT TO
R.C. #2953.22
459 9/29/2003 ENTRY DENYING:
MOTION
12/15/2003 FILING
12/23/2003 NOTICE OF APPEAL FILED
NO. C030940 COPY SENT TO HAMILTON
COUNTY PROSECUTOR
12/26/2003 NOTICE OF APPEAL FILED AND MOTION FOR
DELAYED APPEAL
NO. C030948 COPY SENT TO HAMILTON
COUNTY PROSECUTOR
1/30/2004 ENTRY OF DISMISSAL
(C030940 1/30/04 #22)
***COPY SENT TO DOC AND DEFENDANT ON
03/22/04, RSR***
3/01/2004 PRAECIPE
4/07/2004 PRAECIPE
6/03/2004 COURT OF APPEALS OF HAMILTON COUNTY
CASE NO.
C-030948
7/30/2004 PRAECIPE
8/02/2004 TRANSCRIPT OF PROCEEDINGS
C-030948
8/06/2004 PRAECIPE
10/22/2004 COMPLETE TRANSCRIPT OF PROCEEDINGS
C-030948
1VOL.
11/04/2004 CLERK'S TRANSCRIPT FEE FOR AN INDIGENT
DEFENDANT - FILED
11/30/2004 MOTION
FOR CERTIFICATION OF SENTENCING WORDING
238 12/02/2004 ENTRY OVERRULING
MOTION FOR CERTIFICATION OF SENTENCING
WORDING

IN THE COURT OF APPEALS FIRST APPELLATE
DISTRICT OF OHIO
HAMILTON COUNTY, OHIO

T A B L E O F C O N T E N T S

	PAGE...
MOTION FOR LEAVE TO FILE DELAY APPEAL.....	i
NOTICE OF APPEAL.....	1
STATEMENT OF CASE.....	1
MEMORANDUM IN SUPPORT.....	2
FIRST ASSIGNMENT OF ERROR.....	2
ISSUE PRESENTED FOR REVIEW AND ARGUMENT(S).....	2

AUTHORITIES

App.R.5(A).....	i
CIVIL R.5,58(B).....	2
ATKINSON V.GRUMAMN OHIO CORP.(1988),37 Ohio St.3d.80,523 NE2d 851.....	2
U.S.C.A.Const.Amend 5,14.....	2
Ohio Const.Art.4,\$3(B),B(1)(f).....	2
Moldovan v.Guyahoga Cty.Welfare Dept,(1986),25 Ohio St.3d.293,295,25 OBR 343,345,496 NE2d 466,467.....	3
Mullane v.Central Hanover Bank and Trust Co.,(1950),339 U.S.306,70 S.Ct.652,94 L.Ed.865.....	3
Fed.Rules Civ.Proc.,Rule 77(d1),.....	3
28 U.S.C.A. Rules App.Proc.Rule 4(A).....	3
Wiley v.et.al.v.Gibson,125 Ohio App.3d.77,707 NE2d.1151(Ohio App.1st.Dist.....	4
Cornacchione v.BD.of Zoning Appeals,118 Ohio App.3d.388,692 NE2d.1019,1022.....	4
Sun Oil Co.v.Bd.of Zoning Appeals,(C.P.1966),9 Ohio Misc.101,102,38 O.O.2d.152,153,223 NE2d 384,385-386.....	4
Local R.17(A) Hamilton Cty.Court of Common Pleas.....	5
Section16,Article 1,Ohio Const.....	6
Centervill Bd.of tax Appeals v.Wright,(1991),72 Ohio App.3d.313,594 NE2d.670...6	6
Conclusion.....	6
Hurtado v.California,(1884),110 U.S.516,535,4 S.Ct.111,120,28 L.Ed.232.....	6
Certificate of Service.....	6
EXHIBIT.....DOCKET STATEMENT OF <i>Jan. 1st</i> 2005.	



IN THE COURT OF APPEALS

FIRST APPELLATE DISTRICT OF OHIO

HAMILTON COUNTY, OHIO



D65095116

STATE OF OHIO

APPEAL NO. C-050619

TRIAL NO. B-9702196 ✓

Appellee,

vs.

ENTRY OF DISMISSAL

LOUIS MERRIWEATHER

Appellant.

This cause came on to be considered upon the appeal from the trial court.

The Court *sua sponte* dismisses the appeal for failure of the appellant to comply with the Ohio Rules of Appellate Procedure to wit: the notice of appeal was not timely filed. See Appellate Rule 4 (A).

It is further ordered that a certified copy of this judgment shall constitute the mandate to the trial court pursuant to Rule 27, Ohio Rules of Appellate Procedure.

To The Clerk:

Enter upon the Journal of the Court on AUG 31 2005 per order of the Court.

By: [Signature]

Acting Presiding Judge

(Copy sent to counsel)



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B 9702196

Attorney - Plaintiff

ALEXANDER M TRIANTAFILOU

Attorney - Defendant

JACK C RUBENSTEIN

Judge -

ROBERT S KRAFT

STATE OF OHIO vs. LOUIS MERRIWEATHER

MC # 97CRA9740A,B RECOG: \$100,000

STATE OF OHIO

vs.

LOUIS MERRIWEATHER

213 BOSNICK AV

M

CINTI OH 45210

Race:BLACK - AFRICAN AMERICAN

Sex:M

Age:57

DO:

Filed:4/2/1997

0005 -

WARRANT ON INDICTMENT

Count:1 RAPE-FORCE,THREAT OF FORCE F1 2907-02A1 ORCN

Disp:6/18/1997 3DOC DEPARTMENT OF CORRECTIONS

Count:2 RAPE-FORCE,THREAT OF FORCE F1 2907-02A1 ORCN

Disp:6/18/1997 3DOC DEPARTMENT OF CORRECTIONS

Count:3 RAPE-FORCE,THREAT OF FORCE F1 2907-02A1 ORCN

Disp:6/18/1997 3DOC DEPARTMENT OF CORRECTIONS

Count:4 RAPE-FORCE,THREAT OF FORCE F1 2907-02A1 ORCN

Disp:6/18/1997 3DOC DEPARTMENT OF CORRECTIONS

IMAGE	DATE	DESCRIPTION
-------	------	-------------

4/2/1997	INDICTMENT REPORTED AND FILED. INDICTMENT FOR RAPE 2907.02A1b R.C. W/ SPEC. (4CNTS)
4/2/1997	PRECIPE FOR WARRANT FILED AND WARRANT ISSUED.

Q

	4/3/1997	SIMON L. LEIS JR., SHERIFF: I HAVE IN CUSTODY AND HAVE SERVED COPY OF INDICTMENT ON SAID DEFENDANT BY SNOWDEN, SR. DEPUTY
230	4/10/1997	ORDER TO SEAL ENTRY
	4/11/1997	COUNSEL ASSIGNED DANIEL F BURKE JR
110	4/11/1997	WAIVER OF PRESENCE OF DEFENDANT AT ARRAIGNMENT 100,000
159	4/24/1997	ENTRY OF CONTINUANCE 5/7/97
40	4/25/1997	ORDER TO SEAL ENTRY
	4/30/1997	WRITTEN REQUEST FOR BILL OF PARTICULARS.
	4/30/1997	DEFENDANT'S DEMAND FOR DISCOVERY
52	5/7/1997	ENTRY OF CONTINUANCE 5/15/97
	5/14/1997	SUBPOENA FOR WITNESS RETURNED AND ENDORSED ERICA PARRISH
130	5/15/1997	ENTRY ON WAIVER OF TRIAL BY JURY.
241	5/15/1997	ENTRY ORDERING PROBATION INVESTIGATION AND REPORT CLINIC EVAL.REPORT ORDERED. REMANDED. SENT SET 6/18/97
	5/15/1997	SUBPOENA FOR WITNESS ISSUED TO ERICA PARRISH
124	5/15/1997	ENTRY WITHDRAWING PLEA OF NOT GUILTY AND ENTERING PLEA OF GUILTY CT 1 & 2 RAPE F-1 2907.02 DISMISS CT 3 & 4 & SEXUAL PREDATORS SPEC CTS 3 & 4
19	5/16/1997	ENTRY APPOINTING COMMUNITY DIAGNOSTIC AND TREATMENT CENTER FOR EXAMINATION
66	6/18/1997	ENTRY ORDERING PROCESSING OF OFFENDER
225	6/18/1997	JUDGMENT ENTRY: SENTENCE: INCARCERATION DOC 10YRS ON EACH CTS 1 & 2 CONCURR. TO EACH OTHER WITH CREDIT FROM 3/23/97 THRU 6/18/97. REMANDED. PAY COURT COSTS. FOUND TO BE A SEXUAL PREDATOR
65	6/18/1997	ENTRY ADJUDICATING OFFENDER AS A: SEXUAL PREDATOR
564	6/28/1997	ENTRY APPROVING COUNSEL FEES \$300
	5/6/1998	CRIMINAL STATE COSTS SATISFIED
	12/6/2000	MOTION FOR JUDICIAL RELEASE.
209	12/21/2000	ENTRY OVERRULING JUDICIAL RELEASE
	2/14/2001	MOTION FOR PRODUCTION OF TRANSCRIPTS BY INDIGENT DEFENDANT.
	2/14/2001	AFFIDAVIT OF INDIGENCY
	3/8/2001	MOTION FOR APPOINTMENT OF COUNSEL.

	3/8/2001	AFFIDAVIT OF INDIGENCY
	3/29/2001	NOTICE OF APPEAL FILED NO. C0100232 COPY SENT TO HAMILTON COUNTY PROSECUTOR
	3/29/2001	DOCKET STATEMENT FILED. B9702196
	4/10/2001	MOTION TO DISMISS REQUEST FOR TRANSCRIPTS
135	4/26/2001	ENTRY GRANTING MOTION TO DISMISS REQUEST FOR TRANSCRIPTS
	5/4/2001	ENTRY OF DISMISSAL 05/04/01 IMAGE# 3 C0100232 **COPY SENT TO DOC AND DEFENDANT ON 05/21/01 RSR**
	6/14/2001	DOCKET STATEMENT FILED. C-010232
Doc	9/28/2001	NOTICE OF APPEAL FILED AND MOTION FOR DELAYED APPEAL NO.C0100638 COPY SENT TO HAMILTON COUNTY PROSECUTOR
Doc	9/28/2001	DOCKET STATEMENT FILED.
	10/1/2001	DOCKET STATEMENT FILED. C01000638
	10/2/2001	DOCKET STATEMENT FILED. C-010638
Doc	11/2/2001	ENTRY OVERRULING MOTION FOR LEAVE TO APPEAL C0100638 11/02/01 IMAGE# 4 ***COPY SENT TO DOC AND DEFENDANT ON 11/19/01 RSR***
Doc	12/18/2001	NOTICE OF APPEAL OF APPELLANT L. MERRIWEATHER FILED IN THE SUPREME COURT OF OHIO ON 12/12/01, SC# 01-2152
Doc	2/19/2002	MOTION FOR JAIL TIME CREDIT PURSUANT TO O.R.C. #2967.191
252	3/4/2002	ENTRY GRANTING MOTION FOR JAIL TIME CREDIT
Doc	3/19/2002	COPY OF ENTRY DENYING LEAVE TO APPEAL AND DISMISSING APPEAL, FILED IN THE SUPREME COURT OF OHIO ON 03/04/02, SC # 01-2152
Doc	7/29/2002	MOTION TO SUSPEND INCARCERATION/JUDICIAL RELEASE O.R.C. 2929.20
Doc	8/23/2002	MOTION TO STAY FURTHER PROCEEDING OF #2929.20
Doc	8/27/2002	MOTION FOR DECLARATORY RELIEF OF SENTENCING.
Doc	10/8/2002	MOTION TO STRIKE FROM RECORDS
Doc	11/22/2002	MOTION FOR RECUSAL OF SENTENCING JUDGE
Doc	12/20/2002	MERRIWEATHER'S MOTION FOR POST-SENTENCE WITHDRAWAL OF GUILTY PLEAS.
Doc	1/10/2003	FILING
Doc	1/17/2003	MOTION TO AMEND POST-SENTENCE WITHDRAWAL

		OF GUILTY PLEAS.
284	2/13/2003	ENTRY DENYING MOTION FOR POST SENTENCE WITHDRAWAL OF GUILTY PLEA
285	2/13/2003	ENTRY DENYING MOTION FOR RECUSAL OF SENTENCING JUDGE
Doc	3/4/2003	MOTION TO SUSPEND FURTHER INCARCERATION UNDER JUDICIAL RELEASE O.R.C. #2929.20
354	3/6/2003	ENTRY OVERRULING MOTION FOR JUDICIAL RELEASE
Doc	4/9/2003	MOTION FOR EVIDENTIARY HEARING TO CORRECT MANIFEST INJUSTICE UNDER CRIM. R. 32.1
Doc	4/9/2003	MOTION FOR EMERGENCY DECLARATORY JUDGMENT.
234	4/11/2003	ENTRY DENYING: MOTIONS
Doc	5/15/2003	JUDICIAL NOTICE.
Doc	9/9/2003	MOTION FOR EVIDENTIARY HEARING PURSUANT TO R.C. #2953.22
459	9/29/2003	ENTRY DENYING: MOTION
Doc	12/15/2003	FILING
Doc	12/23/2003	NOTICE OF APPEAL FILED NO. C030940 COPY SENT TO HAMILTON COUNTY PROSECUTOR
Doc	12/26/2003	NOTICE OF APPEAL FILED AND MOTION FOR DELAYED APPEAL NO. C030948 COPY SENT TO HAMILTON COUNTY PROSECUTOR
Doc	1/30/2004	ENTRY OF DISMISSAL (C030940 1/30/04 #22) ***COPY SENT TO DOC AND DEFENDANT ON 03/22/04, RSR***
Doc	3/1/2004	PRAECIPE
Doc	4/7/2004	PRAECIPE
Doc	6/3/2004	COURT OF APPEALS OF HAMILTON COUNTY CASE NO. C-030948
Doc	7/30/2004	PRAECIPE
Doc	8/2/2004	TRANSCRIPT OF PROCEEDINGS C-030948
Doc	8/6/2004	PRAECIPE
Doc	10/22/2004	COMPLETE TRANSCRIPT OF PROCEEDINGS C- 030948 1VOL.
Doc	11/4/2004	CLERK'S TRANSCRIPT FEE FOR AN INDIGENT DEFENDANT - FILED
Doc	11/30/2004	MOTION FOR CERTIFICATION OF SENTENCING WORDING
238	12/2/2004	ENTRY OVERRULING MOTION FOR CERTIFICATION OF SENTENCING WORDING

Doc	1/26/2005	JUDICIAL NOTICE PURSUANT TO FED R EVID. 201
Doc	4/20/2005	JUDGMENT ENTRY AFFIRMING JUDGMENT OF TRIAL COURT C-030948 IMAGE# 27 04/20/2005 ***COPY SENT TO DOC AND DEFENDANT ON 04/29/05, RSR***
Doc	4/22/2005	CRIMINAL STATE COSTS SATISFIED
Doc	5/25/2005	NOTICE OF APPEAL OF APPELLANT LOUIS MERRIWEATHER, FILED IN THE SUPREME COURT OF OHIO ON 05/16/05, SC# 05-0904
Doc	7/27/2005	NOTICE OF APPEAL FILED NO. C050596 COPY SENT TO HAMILTON COUNTY PROSECUTOR
Doc	8/2/2005	NOTICE OF APPEAL FILED AND MOTION FOR DELAYED APPEAL NO.C050619 COPY SENT TO HAMILTON COUNTY PROSECUTOR
Doc	8/12/2005	AFFIDAVIT OF INDIGENCY
Doc	8/17/2005	PETITION IN EQUITY PURSUANT TO EQUITY RULE 25
Doc	8/31/2005	ENTRY OF DISMISSAL C-050619 IMAGE# 46 8- 31-05
Doc	8/31/2005	ENTRY OF DISMISSAL C-050596 IMAGE# 47 8- 31-05
Doc	9/27/2005	COPY OF ENTRY DISMISSING THE APPEAL FILED IN THE SUPREME COURT OF OHIO ON 09/07/05, SC# 05-904

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Attorney - Plaintiff

PRO SE

Attorney - Defendant

HAMILTON COUNTY PROSECUTOR

Judge -

STATE OF OHIO vs. LOUIS MERRIWEATHER

Filed: 3/29/2001

A105 - NOTICE OF APPEAL - CRIMINAL - POVERTY AFFIDAVIT

Total Deposits \$0.00

Total Costs \$60.00

LOUIS MERRIWEATHER

Appellant(s)

vs.

STATE OF OHIO

Appellee(s)

IMAGE	DATE	DESCRIPTION
-------	------	-------------

3/29/2001

NO DEPOSIT REQUIRED-POV.AFF. LOUIS MERRIWEATHER

3/29/2001

NOTICE OF APPEAL FILED.

3/29/2001

APPEAL - ON QUESTIONS OF LAW

3/29/2001

COMMON PLEAS TRIAL COURT # B9702196

3/29/2001

COPY SENT BY ORDINARY MAIL TO HAMILTON COUNTY PROSECUTOR

3/29/2001

DOCKET STATEMENT FILED. B9702196

3/29/2001

APPLICATION AND AFFIDAVIT BY INCARCERATED PERSON TO PROCEED WITHOUT PREPAYMENT OF FEES

4/17/2001

MOTION TO APPOINT COUNSEL

4/17/2001

MOTION TO PREPARE TRANSCRIPT OF PROCEEDINGS AT STATE EXPENSE

5/4/2001

ENTRY OF DISMISSAL B9702196

5/4/2001

NOTICE OF ORDER OR JUDGMENT SENT BY ORDINARY MAIL TO ALL PARTIES REQUIRED BY LAW.

6/14/2001

MOTION TO PREPARE TRANSCRIPT OF PROCEEDING AT STATE EXPENSE

Doc	6/14/2001	MOTION FOR LEAVE TO FILE DELAYED APPEAL AS OF RIGHT
Doc	6/14/2001	MOTION TO APPOINT COUNSEL
Doc	6/14/2001	MOTION FOR LEAVE TO APPEAL
Doc	6/14/2001	DOCKET STATEMENT FILED. B-9702196
Doc	6/14/2001	AFFIDAVIT AFFIFAVIT
Doc	6/14/2001	AFFIDAVIT AFFIDAVIT OF INDIGENCY
6	7/20/2001	ENTRY STRIKING MOTIONS FOR LEAVE TO APPEAL
Doc	7/20/2001	MEMORANDUM IN OPPOSITION TO DEFENDANTS MOTION FOR DELAYED APPEAL
	7/25/2001	NOTICE OF ORDER OR JUDGMENT SENT BY ORDINARY MAIL TO ALL PARTIES REQUIRED BY LAW.

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Attorney - Plaintiff

PRO SE

Attorney - Defendant

HAMILTON COUNTY PROSECUTOR

Judge -

STATE OF OHIO vs. LOUIS MERRIWEATHER

Filed: 9/28/2001 A117 - MOTION TO FILE DELAYED APPEAL - POVERTY AFFIDAVIT

Total Deposits \$0.00

Total Costs \$69.00

LOUIS MERRIWEATHER

Appellant(s)

vs.

STATE OF OHIO

Appellee(s)

IMAGE	DATE	DESCRIPTION
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	9/28/2001	NO DEPOSIT REQUIRED-POV.AFF. LOUIS MERRIWEATHER
Doc	9/28/2001	NOTICE OF APPEAL FILED.
	9/28/2001	MOTION TO FILE DELAYED APPEAL
	9/28/2001	COMMON PLEAS TRIAL COURT # B9702196
	9/28/2001	NOTICE OF APPEAL FILED AND MOTION FOR DELAYED APPEAL COPY SENT TO HAMILTON COUNTY PROSECUTOR
Doc	9/28/2001	MOTION TO APPOINT COUNSEL
Doc	9/28/2001	MOTION TO PREPARE TRANSCRIPT OF PROCEEDINGS AT STATE EXPENSE
Doc	9/28/2001	AFFIDAVIT OF INDIGENCY
Doc	9/28/2001	AFFIDAVIT
Doc	9/28/2001	MOTION FOR LEAVE TO FILE DELAYED APPEAL AS OF RIGHT
Doc	9/28/2001	DOCKET STATEMENT FILED.
	10/1/2001	DOCKET STATEMENT FILED. B9702196
	10/2/2001	DOCKET STATEMENT FILED. B-9702196
4	11/2/2001	ENTRY OVERRULING MOTION FOR LEAVE TO APPEAL B9702196

	11/9/2001	NOTICE OF ORDER OR JUDGMENT SENT BY ORDINARY MAIL TO ALL PARTIES REQUIRED BY LAW.
Doc	12/18/2001	COPY OF NOTICE OF APPEAL TO THE SUPREME COURT OF OHIO FILED 12/12/01. S.C. # 01- 2152
Doc	1/22/2002	MOTION FOR RECONSIDERATION
17	2/8/2002	ENTRY OVERRULING MOTION FOR RECONSIDERATION
	2/13/2002	NOTICE OF ORDER OR JUDGMENT SENT BY ORDINARY MAIL TO ALL PARTIES REQUIRED BY LAW.
Doc	3/19/2002	ENTRY FROM SUPREME COURT OF OHIO DENYING LEAVE TO APPEAL AND DISMISSING APPEAL

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Attorney - Plaintiff

PRO SE

Attorney - Defendant

HAMILTON COUNTY PROSECUTOR

Judge -

STATE OF OHIO vs. LOUIS MERRIWEATHER

Filed: 12/23/2003

A105 - NOTICE OF APPEAL - CRIMINAL - POVERTY AFFIDAVIT

Total Deposits \$0.00

Total Costs \$53.00

LOUIS MERRIWEATHER #348-451

Appellant(s)

vs.

STATE OF OHIO

Appellee(s)

IMAGE	DATE	DESCRIPTION
	12/23/2003	NO DEPOSIT REQUIRED-POV.AFF. LOUIS MERRIWEATHER
Doc	12/23/2003	NOTICE OF APPEAL FILED.
	12/23/2003	APPEAL - ON QUESTIONS OF LAW
	12/23/2003	COMMON PLEAS TRIAL COURT # B-9702196
	12/23/2003	COPY SENT BY ORDINARY MAIL TO HAMILTON COUNTY PROSECUTOR
22	1/30/2004	ENTRY OF DISMISSAL (B9702196)
		NOTICE OF ORDER OR JUDGMENT SENT BY
Doc	2/6/2004	ORDINARY MAIL TO ALL PARTIES REQUIRED BY LAW.
Doc	2/13/2004	DOCKET STATEMENT FILED. B-9702196
Doc	3/12/2004	DOCKET STATEMENT FILED. B-9702196

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Attorney - Plaintiff

PRO SE

Attorney - Defendant

HAMILTON COUNTY PROSECUTOR

Judge -

STATE OF OHIO vs. LOUIS MERRIWEATHER

Filed: 12/29/2003

A117 - MOTION TO FILE DELAYED APPEAL - POVERTY AFFIDAVIT

Total Deposits \$0.00

Total Costs \$147.00

LOUIS MERRIWEATHER #348-451

Appellant(s)

vs.

STATE OF OHIO

Appellee(s)

IMAGE	DATE	DESCRIPTION
Doc	12/26/2003	NOTICE OF APPEAL FILED.
	12/26/2003	NOTICE OF APPEAL FILED AND MOTION FOR DELAYED APPEAL NO. C030948 COPY SENT TO HAMILTON COUNTY PROSECUTOR
Doc	12/26/2003	AFFIDAVIT
Doc	12/26/2003	MOTION TO APPOINT COUNSEL
	12/29/2003	MOTION TO FILE DELAYED APPEAL
	12/29/2003	NO DEPOSIT REQUIRED-POV.AFF. LOUIS MERRIWEATHER
	12/29/2003	COMMON PLEAS TRIAL COURT # B-9702196
36	2/6/2004	ENTRY GRANTING LEAVE TO APPEAL AND EXTENDING TIME
		NOTICE OF ORDER OR JUDGMENT SENT BY ORDINARY MAIL TO ALL PARTIES REQUIRED BY LAW.
Doc	2/10/2004	
18	3/5/2004	ORDER TO SHOW CAUSE
		NOTICE OF ORDER OR JUDGMENT SENT BY ORDINARY MAIL TO ALL PARTIES REQUIRED BY LAW.
Doc	3/10/2004	
		CERTIFICATE OF SERVICE
Doc	3/12/2004	
Doc		

	4/2/2004	BRIEF OF APPELLANT LOUIS MERRIWEATHER
Doc	4/2/2004	DOCKET STATEMENT FILED. B-9702196
		ACCELERATED CALENDAR SCHEDULING ORDER,
14	4/15/2004	ENTERED. 06/09/04 RECORD DUE. 07/09/04
		APPELLANT'S BRIEF DUE. 08/10/04 APPELLEE'S
		BRIEF DUE.
Doc	4/16/2004	NOTICE OF ORDER OR JUDGMENT SENT BY
		ORDINARY MAIL TO ALL PARTIES REQUIRED BY
		LAW.
Doc	4/21/2004	MOTION FOR EXTENSION OF ACCELERATED BRIEF
		BEYOND THE 15 PAGE LIMIT TO 30 PAGES
5	5/14/2004	ENTRY OVERRULING MOTION TO ENLARGE PAGE
		LIMITS FOR APPELLANT'S BRIEF
Doc	5/19/2004	NOTICE OF ORDER OR JUDGMENT SENT BY
		ORDINARY MAIL TO ALL PARTIES REQUIRED BY
		LAW.
Doc	5/26/2004	REVISED BRIEF OF APPELLANT LOUIS
		MERRIWEATHER
	6/3/2004	NOTICE OF FILING OF RECORD EXCLUDING
		TRANSCRIPT OF PROCEEDINGS MAILED TO MICHAEL
		K. ALLEN AND LOUIS MERRIWEATHER
Doc	6/3/2004	TRANSCRIPT OF DOCKET AND JOURNAL ENTRIES
		FILED
31	6/3/2004	ENTRY STRIKING AND EXTENDING TIME TO FILE
		AMENDED BRIEF UNTIL 6/16/04
Doc	6/7/2004	NOTICE OF ORDER OR JUDGMENT SENT BY
		ORDINARY MAIL TO ALL PARTIES REQUIRED BY
		LAW.
Doc	6/21/2004	REQUESTED FILING OF FINAL ORDER PER LOCAL
		RULE 6 (B) (1) (B) CASE NO. C-030948
Doc	7/6/2004	LETTER FROM LOUIS MERRIWEATHER
Doc	7/12/2004	APPELLANT'S REQUEST FOR ORAL ARGUMENT
Doc	7/16/2004	REVISED BRIEF OF APPELLANT LOUIS
		MERRIWEATHER
Doc	7/16/2004	MOTION TO EXTEND TIME
6	7/22/2004	ENTRY EXTENDING TIME TO FILE APPELLANT'S
		BRIEF AND ACCEPTING BREIF AS TIMELY FILED
Doc	7/27/2004	NOTICE OF ORDER OR JUDGMENT SENT BY
		ORDINARY MAIL TO ALL PARTIES REQUIRED BY
		LAW.
Doc	8/2/2004	TRANSCRIPT OF PROCEEDINGS B-9702196 1 VOL.
Doc	8/11/2004	PRAECIPE
Doc	8/12/2004	MOTION TO EXTEND TIME TO FILE BRIEF OF
		PLAINTIFF-APPELLEE
43	8/13/2004	ENTRY OVERRULING REQUEST FOR ORAL ARGUMENT
61	8/13/2004	ENTRY GRANTING EXTENSION OF TIME TO FILE
		APPELLEE'S BRIEF UNTIL 09/17/04.
Doc	8/17/2004	NOTICE OF ORDER OR JUDGMENT SENT BY
		ORDINARY MAIL TO ALL PARTIES REQUIRED BY
		LAW.
Doc	8/20/2004	NOTICE OF ORDER OR JUDGMENT SENT BY
		ORDINARY MAIL TO ALL PARTIES REQUIRED BY
		LAW.
Doc	8/23/2004	APPELLANT'S OBJECTION TO APPELLEE'S MOTION
		FOR EXTENSION OF FILING TIME BEYOND 7 DAYS
61	8/25/2004	ENTRY OVERRULING OBJECTION TO EXTENSION
		FOR APPELLEE'S BRIEF
		NOTICE OF ORDER OR JUDGMENT SENT BY

Doc	8/27/2004	ORDINARY MAIL TO ALL PARTIES REQUIRED BY LAW.
Doc	9/21/2004	BRIEF OF PLAINTIFF-APPELLEE
Doc	9/24/2004	NOTIFICATION OF MERIT HEARING ON 11/17/04 IN COURTROOM A SENT TO LOUIS MERRIWEATHER AND PHILIP CUMMINGS
Doc	10/6/2004	MOTION TO AMEND PREVIOUSLY FILED EXHIBITS/APPENDIXS
Doc	10/6/2004	MOTION TO STRIKE APPELLEE'S BRIEF AS UNTIMELY
Doc	10/22/2004	COMPLETE TRANSCRIPT OF PROCEEDINGS B- 9702196 1 VOL.
65	10/22/2004	ENTRY GRANTING MOTION TO AMEND PREVIOUSLY FILED EXHIBITS APPENDICES
66	10/22/2004	ENTRY OVERRULING MOTION TO STRIKE APPELLEE'S BRIEF
Doc	10/25/2004	NOTICE OF ORDER OR JUDGMENT SENT BY ORDINARY MAIL TO ALL PARTIES REQUIRED BY LAW.
Doc	10/25/2004	NOTICE OF ORDER OR JUDGMENT SENT BY ORDINARY MAIL TO ALL PARTIES REQUIRED BY LAW.
27	4/20/2005	JUDGMENT ENTRY AFFIRMING JUDGMENT OF TRIAL COURT B-9702196
Doc	4/22/2005	NOTICE OF ORDER OR JUDGMENT SENT BY ORDINARY MAIL TO ALL PARTIES REQUIRED BY LAW.
Doc	5/25/2005	COPY OF NOTICE OF APPEAL TO THE SUPREME COURT OF OHIO FILED 05/16/05. S.C. # 05- 0904
Doc	9/27/2005	ENTRY FROM THE SUPREME COURT OF OHIO DECLINES JURISDICTION AND DISMISSES THE APPEAL

More information regarding locked (🔒) documents is available here.

Last Updated: October 7, 2005

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C 0500596

Attorney - Plaintiff

PRO SE

Attorney - Defendant

HAMILTON COUNTY PROSECUTOR

Judge -

STATE OF OHIO vs. LOUIS MERRIWEATHER

Filed: 7/27/2005

A105 - NOTICE OF APPEAL - CRIMINAL - POVERTY AFFIDAVIT

Total Deposits \$0.00

Total Costs \$53.00

LOUIS MERRIWEATHER 348-451

Appellant(s)

vs.

STATE OF OHIO

Appellee(s)

IMAGE	DATE	DESCRIPTION
Doc	7/27/2005	NOTICE OF APPEAL FILED.
	7/27/2005	NO DEPOSIT REQUIRED-POV.AFF. LOUIS MERRIWEATHER
	7/27/2005	APPEAL - ON QUESTIONS OF LAW
	7/27/2005	COPY SENT BY ORDINARY MAIL TO HAMILTON COUNTY PROSECUTOR
	7/27/2005	COMMON PLEAS TRIAL COURT # B9702196
47	8/31/2005	ENTRY OF DISMISSAL B-9702196
Doc	9/1/2005	NOTICE OF ORDER OR JUDGMENT SENT BY ORDINARY MAIL TO ALL PARTIES REQUIRED BY LAW.

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C 0500619

Attorney - Plaintiff

PRO SE

Attorney - Defendant

HAMILTON COUNTY PROSECUTOR

Judge -

STATE OF OHIO vs. LOUIS MERRIWEATHER

Filed: 8/2/2005 A117 - MOTION TO FILE DELAYED APPEAL - POVERTY AFFIDAVIT

Total Deposits \$0.00

Total Costs \$55.00

LOUIS MERRIWEATHER 348-451

Appellant(s)

vs.

STATE OF OHIO

Appellee(s)

IMAGE	DATE	DESCRIPTION
	8/2/2005	NOTICE OF APPEAL FILED.
	8/2/2005	MOTION TO FILE DELAYED APPEAL
	8/2/2005	NO DEPOSIT REQUIRED-POV.AFF. LOUIS MERRIWEATHER
Doc	8/2/2005	AFFIDAVIT OF INDIGENCY TRIAL NO. B-9702196
Doc	8/2/2005	AFFIDAVIT
	8/2/2005	NOTICE OF APPEAL FILED AND MOTION FOR DELAYED APPEAL COPY SENT TO HAMILTON COUNTY PROSECUTOR
	8/2/2005	COMMON PLEAS TRIAL COURT # B9702196
Doc	8/31/2005	MEMORANDUM IN OPPOSITION TO MOTION FOR LEAVE TO FILE DELAYED APPEAL
46	8/31/2005	ENTRY OF DISMISSAL B-9702196
Doc	9/1/2005	NOTICE OF ORDER OR JUDGMENT SENT BY ORDINARY MAIL TO ALL PARTIES REQUIRED BY LAW.

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Columbus, Ohio 43215-3431
800.826.9010
614.387.9530

Marcia J. Mengel
Clerk of Court

Search Results: Case Number 2001-2152

The Supreme Court of Ohio **CASE INFORMATION**

GENERAL INFORMATION

Case: 2001-2152 Discretionary Appeal (Felony); Claimed Appeal of Right

Filed: 12/12/01

Status: Case Is Disposed

State of Ohio v. Louis Merriweather

PARTIES and ATTORNEYS

Merriweather, Louis (Appellant)

State of Ohio (Appellee)

Represented by:

Allen, Michael (25214)

PRIOR JURISDICTION

Jurisdiction Information	Prior Decision Date	Case Number(s)
Hamilton County, 1st District	11/02/2001	C010638

DOCKET ITEMS

Date Filed	Description
12/12/01	Notice of appeal of Louis Merriweather <i>Filed by:</i> Merriweather, Louis
12/12/01	And memorandum in support of jurisdiction <i>Filed by:</i> Merriweather, Louis

12/12/01	And affidavit of indigency <i>Filed by: Merriweather, Louis</i>
12/13/01	Copy of notice of appeal sent to clerk of court of appeals
03/04/02	Upon consideration of jurisdictional question
	03/04/02: Leave to appeal denied and appeal dismissed
03/15/02	Copy of entry sent to clerk

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Marcia J. Mengel
Clerk of Court

Search Results: Case Number 2005-0904

The Supreme Court of Ohio

CASE INFORMATION

GENERAL INFORMATION

Case: 2005-0904 Discretionary Appeal (Non-felony); Claimed Appeal of Right

Filed: 05/16/05

Status: Case Is Disposed

State of Ohio v. Louis Merriweather

PARTIES and ATTORNEYS

Merriweather, Louis (Appellant)

State of Ohio (Appellee)

Represented by:

Cummings, Philip (41497) , Counsel of Record

Deters, Joseph (12084)

PRIOR JURISDICTION

Jurisdiction Information	Prior Decision Date	Case Number(s)
Hamilton County, 1st District	04/20/2005	C030948

DOCKET ITEMS

Date Filed	Description
05/16/05	Notice of appeal of Louis Merriweather <i>Filed by:</i> Merriweather, Louis
05/16/05	And memorandum in support of jurisdiction <i>Filed by:</i> Merriweather, Louis

05/16/05	Affidavit of indigency <i>Filed by: Merriweather, Louis</i>
05/16/05	Case information statement <i>Filed by: Merriweather, Louis</i>
05/17/05	Copy of notice of appeal sent to clerk of court of appeals
06/14/05	Memorandum in response <i>Filed by: State of Ohio</i>
09/07/05	DECISION: Jurisdiction declined and appeal dismissed
09/21/05	Copy of entry sent to clerk

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REOPEN

**U.S. District Court
Southern District of Ohio (Cincinnati)
CIVIL DOCKET FOR CASE #: 1:02-cv-00369-SAS-TSH**

Merriweather v. Hurt Assigned to: S Arthur Spiegel Referred to: Timothy S Hogan Demand: \$0 Cause: 28:2254 Petition for Writ of Habeas Corpus (State)	Date Filed: 05/24/2002 Jury Demand: None Nature of Suit: 530 Habeas Corpus (General) Jurisdiction: Federal Question
---	---

Petitioner

Louis Merriweather

represented by **Louis Merriweather**
 #348-451
 Chillicothe Correctional Institution
 P.O. Box 5500
 Chillicothe, OH 45601
 PRO SE

V.

Respondent

James Erwin

represented by **Stuart Alan Cole**
 Ohio Attorney General
 Corrections Litigation Section
 150 East Gay Street
 16th Floor
 Columbus, OH 43215-6001
 614/644-7233
 Email: scole@ag.state.oh.us
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Theodore E Kiser
 Assistant Attorney General
 Corrections Litigation Section
 1600 Carew Tower
 441 Vine Street
 Cincinnati, OH 45202
 513-852-3497
TERMINATED: 08/28/2002
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text

05/13/2002	1	APPLICATION to proceed IFP by petitioner Louis Merriweather (no pgs: 5) (sem) (Entered: 05/15/2002)
05/13/2002	2	PETITION FOR WRIT OF HABEAS CORPUS (referred to Mag. Judge Mark R. Abel) (no pgs: 15) (sem) (Entered: 05/15/2002)
05/13/2002	3	ORDER by Mag. Judge Mark R. Abel denying petitioner's application to proceed IFP [1-1]; Petitioner is ORDERED to pay the \$5.00 filing fee within 30 days from the date of this order; transferring case to the Cincinnati Division (cc: all counsel) (no pgs: 2) (sem) (Entered: 05/15/2002)
05/15/2002		Remark: Original record with certified copy of transfer order and docket sheet sent to the USDC SD of Ohio (Cincinnati) (sem) (Entered: 05/15/2002)
05/22/2002		Filing Fee Paid: on 5/22/02 in the amount of \$ 5.00, receipt # 230746. (sem) (Entered: 05/23/2002)
05/24/2002		Original file, certified copy of transfer order docket sheet received from SD of OHio at Columbus [MC-2-02-21]; to Judge S. A. Spiegel (referred to Mag. Judge Timothy S. Hogan) (wam) (Entered: 05/28/2002)
06/03/2002	4	ORDER TO SHOW CAUSE: by Mag. Judge Timothy S. Hogan that Respondent has 60 days to respond to the petition (no pgs: 2 (cc: all counsel) (vp) (Entered: 06/03/2002)
07/30/2002	5	MOTION by respondent to extend time until 10/02/02 in which to file answer/return of writ (no pgs: 2) (km) (Entered: 07/30/2002)
07/31/2002	6	ORDER by Mag. Judge Timothy S. Hogan granting motion to extend time until 10/02/02 in which to file answer/return of writ [5-1] (cc: all counsel) (no pgs: 1) (km) (Entered: 07/31/2002)
08/08/2002	7	NOTICE by petitioner of change of address to Chillicothe Corr Inst (no pgs: 1) (km) (Entered: 08/09/2002)
08/28/2002	8	ATTORNEY SUBSTITUTION: terminating attorney Theodore E Kiser for Robert L Hurt and substituting attorney Stuart Alan Cole (no pgs: 2) (km) (Entered: 08/29/2002)
08/30/2002	9	ANSWER TO HABEAS CORPUS PETITION by respondent (no pgs 17+exh 1-15) (km) (Entered: 09/03/2002)
09/13/2002	10	RESPONSE/TRVERSE by petitioner to answer to habeas corpus petition [9-1] (no pgs: 3) (km) (Entered: 09/16/2002)
09/25/2002	11	Addendum/Supplemental Points and Authorities filed by petitioner in support of response/traverse to answer/return of writ [10-1] (no pgs: 39+) (km) (Entered: 09/26/2002)
04/15/2003	12	MOTION by petitioner for order granting evidentiary hearing (no pgs: 3) (wam) (Entered: 04/15/2003)
05/01/2003	13	ORDER by Mag. Judge Timothy S. Hogan directing petitioner to serve a

		copy of his motion for evidentiary hearing [doc. 12] upon respondent and show proof of such service within 10 days of the date of this order or the motion shall be stricken from the docket of the court (cc: all counsel) (no pgs: 1) (scot) (Entered: 05/01/2003)
05/12/2003	14	CERTIFICATE OF SERVICE/RESPONSE by petitioner Louis Merriweather to order [13-1] (no pgs: 1+) (scot) Modified on 05/12/2003 (Entered: 05/12/2003)
05/14/2003	15	MEMORANDUM by respondent in opposition to petitioner's motion for evidentiary hearing [12-1] (no pgs: 2) (wam) (Entered: 05/15/2003)
06/03/2003	16	ORDER by Mag. Judge Timothy S. Hogan that petitioner's motion for evidentiary hearing [12-1] shall remain on the docket for ruling (cc: all counsel) (no pgs: 1) (scot) (Entered: 06/03/2003)
09/02/2003	17	MOTION to Amend [2] Petition for Writ of Habeas Corpus by Petitioner Louis Merriweather. (Attachments: # <u>1</u> Exhibit state court documents) (wam,) (Entered: 09/03/2003)
09/12/2003	18	ORDER denying [12] Motion for Evidentiary Hearing. Signed by Judge Timothy S Hogan on 9/11/2003. (km,) (Entered: 09/12/2003)
09/16/2003	19	MOTION for Order to advance the cause by Petitioner Louis Merriweather. (wam,) (Entered: 09/17/2003)
09/25/2003	20	Objection to Magistrate Judge Order re 18 Order on Motion for evidentiary hearing by Petitioner Louis Merriweather. (Attachments: # <u>1</u> Exhibit)(wam,) (Entered: 09/26/2003)
12/08/2003	21	JUDICIAL NOTICE by Petitioner Louis Merriweather (wam,) (Entered: 12/09/2003)
12/17/2003	22	ORDER overruling <u>20</u> Objections to Magistrate Judge's Order. The Court affirms the Magistrate Judge's 9/12/2003 order <u>18</u> and denies Petitioner's Motion for an Evidentiary Hearing [12]. Signed by Judge S Arthur Spiegel on 12/17/2003. (km,) Additional attachment(s) added on 12/17/2003 (km,). Return receipt attached on 12/29/2003 (ss,). (Entered: 12/17/2003)
04/28/2004	23	ORDER granting <u>17</u> Motion to Amend/Correct, denying <u>19</u> Motion for Order to . Signed by Judge Timothy S Hogan on 4/28/2004. (ba,) Modified on 4/29/2004 (ba,); certified mail sent this date to plaintiff. Modified on 5/4/2004 (ba,). Modified on 5/4/2004 (ba,). Additional attachment(s) added on 5/7/2004 (ba,). Additional attachment(s) added on 8/30/2004 (wam,). (Entered: 04/29/2004)
05/03/2004	24	Response / <i>Supplemental Return of Writ</i> by Respondent James Erwin. (Cole, Stuart) (Entered: 05/03/2004)
06/23/2004	25	Response/Supplemental new & discovered evidence re <u>23</u> Order on Motion to Amend/Correct habeas petition by Petitioner Louis Merriweather. (Attachments: # <u>1</u> Exhibit Orders by 1st Appellate District of Ohio)(wam,) (Entered: 06/24/2004)

07/26/2004	<u>26</u>	ORDER: Respondent provide this Court with a copy of the transcript of petitioner's sentencing hearing within 20 days of the date of this Order and that respondent shall also file a copy of the state record regarding the delayed appeal recently granted to petitioner in accordance with this order. Signed by Judge Timothy S Hogan on 7/26/2004. (ba,) Modified on 7/28/2004 (ba,); certified mail sent this date to plaintiff. Additional attachment(s) added on 8/5/2004 (wam,). (Entered: 07/28/2004)
08/10/2004	<u>27</u>	Response / <i>Second Supplemental Return of Writ</i> by Respondent James Erwin. (Attachments: # <u>1</u> Exhibit 1-6)(Cole, Stuart) (Entered: 08/10/2004)
08/10/2004	<u>28</u>	MOTION for Extension of Time to File New date requested 10/1/2004. <i>to File Sentencing Transcript</i> by Respondent James Erwin. (Cole, Stuart) (Entered: 08/10/2004)
08/16/2004	<u>29</u>	Response / <i>Third Supplemental Writ</i> by Respondent James Erwin. (Attachments: # <u>1</u> Exhibit A)(Cole, Stuart) (Entered: 08/16/2004)
08/19/2004	<u>30</u>	ORDER granting <u>28</u> Motion for Extension of Time to File to File Sentencing Transcript which the Court's notes was filed 8/16/2004. Signed by Judge Timothy S Hogan on 8/19/2004. (ba,) Modified on 8/19/2004 (ba,); certified mail sent this date to Petitioner. Additional attachment(s) added on 8/27/2004 (wam,). (Entered: 08/19/2004)
08/20/2004	<u>31</u>	Response in opposition to respondent's motion for extension of time <u>28</u> to file trial court transcripts by Petitioner Louis Merriweather. (wam,) (Entered: 08/23/2004)
08/20/2004	<u>32</u>	MOTION to advance the cause by Petitioner Louis Merriweather. (wam,) (Entered: 08/23/2004)
08/20/2004	<u>33</u>	MOTION to Strike petitioner's motion for newly discovered evidence by Petitioner Louis Merriweather. (Attachments: # <u>1</u> Exhibit)(wam,) (Entered: 08/23/2004)
08/23/2004	<u>34</u>	MOTION to VOLUNTARILY Dismiss writ of habeas corpus by Petitioner Louis Merriweather. Responses due by 9/16/2004 (wam,) (Entered: 08/24/2004)
01/04/2005	<u>35</u>	REPORT AND RECOMMENDATION that <u>32</u> MOTION to advance the cause filed by Louis Merriweather be DENIED as Moot, <u>33</u> MOTION to Strike filed by Louis Merriweather be DENIED as Moot, and <u>34</u> MOTION to Dismiss filed by Louis Merriweather be GRANTED and that the amended petition for writ of habeas corpus docs. [2] & <u>17</u> be DISMISSED. Objections to R&R due by 1/19/2005. Signed by Judge Timothy S Hogan on 1/3/2005. (art,) Additional attachment(s) # <u>1</u> certified mailing label added on 1/25/2005 (art,). Modified on 1/25/2005 (art,). (Entered: 01/04/2005)
01/11/2005	<u>36</u>	RESPONSE to <u>35</u> Report and Recommendations by Petitioner Louis Merriweather. (wam,) (Entered: 01/12/2005)
02/14/2005	<u>37</u>	ORDER adopting <u>35</u> Report and Recommendation, granting <u>34</u> Motion

		to Voluntarily Dismiss Without Prejudice, denying as moot <u>32</u> Motion to Advance Cause, denying as moot <u>33</u> Motion to Strike, since they are rendered MOOT by the granting of Petitioner's Motion to Voluntarily Dismiss without prejudice. Signed by Judge S Arthur Spiegel on 2/14/2005. (km,) Additional attachment(s) added on 2/14/2005 (km,). Additional attachment(s) added on 2/18/2005 (wam,). (Entered: 02/14/2005)
02/14/2005	<u>38</u>	CLERK'S JUDGMENT entered affirming Court Order <u>37</u> dismissing case without prejudice. (km,) (Entered: 02/14/2005)
09/16/2005	<u>39</u>	MOTION to Reopen Case by Petitioner Louis Merriweather. (Attachments: # <u>1</u> Exhibit)(scot,) (Entered: 09/20/2005)
09/16/2005	<u>40</u>	MOTION to advance the cause by Petitioner Louis Merriweather. (Attachments: # <u>1</u> Exhibit)(scot,) (Entered: 09/20/2005)
09/30/2005	<u>41</u>	ORDER granting petitioner's <u>39</u> Motion to Reopen Case, and denying petitioner's <u>40</u> Motion to advance the cause. To the extent petitioner seeks to raise new claims, he must file an amended petition within (20) days of the date of this Order. Signed by Judge Timothy S Hogan on 9/28/2005. (art,) (Entered: 09/30/2005)

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